

REMARKS

The present application includes pending claims 1-44, all of which have been rejected. In particular, claims 1-9, 11-19, 21-38 and 40-44 stand rejected under 35 U.S.C. 102(e) as being anticipated by U.S. 6,813,775 ("Finseth"). Claims 10 and 39 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Finseth in view of U.S. 2006/0031883 ("Ellis"). Claim 20 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Finseth in view of U.S. 5,659,366 ("Kerman"). The Applicants respectfully traverse these rejections for at least the reasons previously discussed during prosecution and the following.

Initially, the Applicants note that a goal of patent examination is to provide a prompt and complete examination of a patent application.

It is essential that patent applicants obtain a prompt yet complete examination of their applications. Under the principles of compact prosecution, each claim should be reviewed for compliance **with every statutory requirement for patentability in the *initial review* of the application**, even if one or more claims are found to be deficient with respect to some statutory requirement. Thus, Office personnel ***should state all reasons and bases for rejecting claims in the first Office action.*** Deficiencies should be explained clearly, particularly when they serve as a basis for a rejection. **Whenever practicable, Office personnel should indicate how rejections may be overcome and how problems may be resolved.** A failure to follow this approach can lead to unnecessary delays in the prosecution of the application.

Manual of Patent Examining Procedure (MPEP) § 2106(II) (emphasis added). As such, the Applicants assume, based on the goals of patent examination noted above, that the Office Action has set forth "all reasons and bases" for rejecting the claims.

Further, this Response does not amend any of the pending claims. Therefore, this Response cannot raise any new issues that would require a further search.

I. Finseth Does Not Anticipate Claim 1

Claim 1 recites, in part, **“upon said receiving the request for media consumption, from the user at the first location,** sending at least one indication of media consumption activity to the at least a second location, via the communication network, if the at least one condition is met.” The claim is clear that when the request for media consumption is received from the user at the first location, at least one indication of media consumption activity is sent to the at least second location if the at least one condition is met.

Finseth “relates to systems and methods for presenting media programs to subscribing viewers, and in particular to a system and method for sharing viewer preferences among viewers.” Finseth at column 1, lines 16-19. Finseth discloses a method that “transmit[s] at least a portion of the first viewer preference information to a second user for storage in a memory of a second user device.” *See id.*

In Finseth, one subscriber decides to share information with another subscriber. After the subscriber decides, without any prompting from the other, to share that information, Finseth discloses that the other may choose to receive portions of the information that the other decided to share. *See id, e.g.,* at column 17, lines 29-44. However, Finseth does not describe, teach or suggest that the recipient first requested any information from the sharer. Instead, the sharer decides to share information with the recipient. The recipient may then determine portions of the information to receive.

In particular, Finseth discloses the following:

The method comprises the steps of storing first user viewer preference information characterizing media programs selected by the first user in a memory of a first user device, and transmitting at

least a portion of the first viewer preference information to a second user for storage in a memory in a second user device.

Id. at column 2, .lines 22-33. Further,

When the user wants to share viewing preference information, the user initiates the process using, for example, remote control 86. To share viewing preference information a user must first select with whom to share the information, which is represented by box 132.

Id. at column 12, lines 23-28 (emphasis added). *See also id.* at column 13, lines 35-48 (“When a user decides to share viewing information with a group, the user initiates a multi-step process...”).

Thus, Finseth is clear that the sharing process is initiated by a sharer selecting another subscriber(s) with whom to share the viewer preference information. The process does not begin, however, with the recipient requesting anything from the sharer.

As noted above, Finseth discloses a system in which a user sends viewer preferences at his/her own choosing. *See id.* at column 12, lines 23-25 (“**When the user wants to share viewing preference information**, the user initiates the process using, for example, remote control 86.”). The user may also set up a regular time in which to share the viewer preference information. *See id.* at column 12, lines 49-51 (“A user can select to regularly share preference information by establishing a **share interval** as will be discussed in more detail below.”).

The Applicants respectfully submit, however, that Finseth does not describe, teach or suggest “**upon said receiving the request for media consumption, from the user at the first location**, sending at least one indication of media consumption activity **to the at least a second location**, via the communication network, if the at least one condition is met,” as recited in claim

1. There is nothing in Finseth that describes, teaches or suggests that **upon receiving such a request, an indication of media consumption activity is sent to the second location.**

Nevertheless, the Office Action cites Finseth at column 10, lines 13-24 as disclosing these limitations. *See* July 29, 2008 Office Action at pages 2 and 5. This portion of Finseth states the following:

Receiver 64 preferably tracks a user's viewing history and stores viewing preference information in a selection history table in memory 78. The selection history table is initially empty when receiver 64 is first purchased. For each media program that is chosen by a user, receiver 64 stores information characterizing the media program. The characterizing information is included in the program guide objects broadcast to the receiver as discussed above. When a user selects a television program from program guide 88A, the characterizing information from the associated program guide object is stored in the selection history table in memory 78.

Finseth at column 10, lines 13-24. Notably, this portion of Finseth makes clear that the receiver 64 tracks viewing history and stores the preference information in the memory 78. While it states that the receiver 64 stores information characterizing a chosen media program in the memory 78, the "choice" of program and the storing of information characterizing that program occur at the same location.

In particular, Finseth discloses the following:

FIG. 3 is a block diagram of one of receiver stations 34, which receives and decodes audio, video, and data signals. Receiver station 34 includes receiver dish 60, alternate content source 62, receiver 64, television 66, recording device 68, a remote control 86, and an access card 85 communicatively coupled to the receiver 64 by an access card interface 87. Receiver 64 includes tuner 70, digital-to-analog (D/A) converter 72, CPU 74, clock 76, memory 78, logic circuit 80, interface 82, and infrared (IR) receiver 84.

Id. at column 7, lines 19-28. Thus, the receiver 64, including the memory 78, is at the same location as the television 66. Finseth does not indicate that a user's TV and receiver are at separate locations. Indeed, it would not make sense for a user to tune a receiver to a particular program and then commute to another location to watch that program. Instead, a user uses the receiver 64, including the memory 78, to tune in channels on his/her TV 66, all of which are at a single location. So, while Finseth discloses that a user "chooses" a media program and then preference information is stored in the memory 78 of the receiver 64, the selection and storing of the information are performed at one location.

Finseth does not describe, teach or suggest, however, **"upon said receiving the request for media consumption, from the user at the first location**, sending at least one indication of media consumption activity to the at least a second location, via the communication network, if the at least one condition is met," as recited in claim 1. Thus, for at least these reasons, the Applicants respectfully request reconsideration of the rejection of claims 1-10.

Additionally, Finseth teaches that the stored preference information is only sent to another user at a second location when the first user at the first location chooses to initiate the sending by an action separate from the request for media consumption, or upon the setting and passing of an interval of time upon which the system of the first user will send the contents of the "history table." If the user in Finseth does not initiate sending of the preference information, and does not set a time interval for automatic sending of preference information, the system of Finseth does not send the preference information at all, and certainly does not **"...upon said receiving the request for media consumption, from the user at the first location, send[ing]** at least one indication of media consumption activity to the at least a second location, via the

communication network, if the at least one condition is met.” Thus, for at least this additional reason, the Applicants respectfully request reconsideration of the claim rejections.

II. Finseth Does Not Anticipate Claim 11

Claim 11 recites, in part, “upon receiving a request for media consumption from the second location, notifying the user, at the first location, of the receipt of the at least one indication of media consumption activity, if the at least one condition is met.” The Applicants respectfully submit that Finseth does not anticipate claims 11-21 for at least the reasons discussed above with respect to claim 1.

III. Finseth Does Not Anticipate Claim 22

Claim 22 recites, in part, “software that receives at least one indication of media consumption activity from the at least a second location, via the communication network, and that responds by notifying the user if the at least one user defined condition is met **upon receipt of a request for media consumption**, and that refrains from notifying the user if the at least one user defined condition is not met.” The Applicants respectfully submit that Finseth does not anticipate claims 22-29 for at least the reasons discussed above with respect to claim 1.

IV. Finseth Does Not Anticipate Claim 30

Claim 30 recites, in part, “upon receiving a request for media consumption from a user, sending at least one indication of media consumption activity to a first location, via a communication network, if at least one condition received at a second location and defining when an indication of media consumption activity is sent by the second location to at least the first location is met.” For at least the reasons discussed above, the Applicants respectfully submit that Finseth does not anticipate claims 30-39.

V. Finseth Does Not Anticipate Claim 40

Claim 40 recites, in part, “software that receives at least one indication of media consumption activity from a second location, via a communication network, and that responds by notifying a user at the first location if at least one user defined condition for notifying the user at the first location is met **upon receiving a request for media consumption**, and that refrains from notifying the user at the first location if the at least one user defined condition for notifying the user at the first location is not met.” For at least the reasons discussed above, the Applicants respectfully submit that Finseth does not anticipate claims 40-44.

VI. Claims 10, 20 And 39

The Applicants respectfully submit that the proposed combination of Finseth and any of the other cited references does not render claims 10, 20 and 39 unpatentable for at least the reasons discussed above.

VII. Conclusion

In general, the Office Action makes various statements regarding the pending claims and the cited references that are now moot in light of the above. Thus, the Applicants will not address such statements at the present time. However, the Applicants expressly reserve the right to challenge such statements in the future should the need arise (e.g., if such statement should become relevant by appearing in a rejection of any current or future claim).

The Applicants respectfully request reconsideration of the claim rejections for at least the reasons discussed above. If the Examiner has any questions or the Applicants can be of any assistance, the Examiner is invited to contact the undersigned attorney.

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Under 37 C.F.R. § 1.116
September 5, 2008

The Commissioner is authorized to charge any necessary fees, or credit any overpayment to the Deposit Account of McAndrews, Held & Malloy, Account No. 13-0017.

Respectfully submitted,

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